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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/971,718

10/04/2001

Ranjit N. Notani

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EXAMINER

SWARTZ, JAMIE H

ART UNIT

PAPER NUMBER

3694

MAIL DATE

DELIVERY MODE

05/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/971,718	Applicant(s) NOTANI ET AL.	
	Examiner JAMIE H. SWARTZ	Art Unit 3694	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-31.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jamie Swartz/
Examiner, Art Unit 3694

/Mary Cheung/
Primary Examiner, Art Unit 3694

Continuation of 11. does NOT place the application in condition for allowance because: The Examiner disagrees with the Applicants assertion that the term meta-model is clearly defined in the specification. On page 17 of the Applicant Arguments/ Remarks the Applicant states that the "specification is clear that a 'meta-model' is a 'description of a TPA.'" The Examiner asserts that upon entering the definition of the term meta-model for example into claim 1 would cause the claim to read "a set of one or more [description of a TPA] elements each capable of being negotiated by two or more enterprises and incorporated into a negotiated [description of a TPA] that describes an agreement between the enterprises..." still renders the claim vague. The Examiner also asserts that by stating that a "'meta-model' may contain XML data" only adds a negative limitation to the claim and fails to further limit the claim. The Examiner stated that the broadest reasonable interpretation of the term 'meta-model' would be applied in the case. The Examiner respectfully disagrees to the Applicants assertion that the Examiner defined the term 'meta-model.' A prima face case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable contraction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability. Based on the laws governing the patent office the Examiner is to apply the broadest reasonable interpretation of the claimed invention. Applicants arguments in regards to the Fisher-Byde combination for claims 1-3, 6-10, 11-13, 16-20, 21-23, and 26-31 are not found persuasive. The applicant argues that by referencing Byde in the rejection the examiner is stating that Fisher does not teach a trade agreement or negotiations. The examiner respectfully disagrees. Fisher does use the concept of negotiations. The reference to Boyd was to show the applicant that negotiations within trading were old and well known at the time of the invention. The examiner believes that negotiations are inherent in a trade agreement and uses the Boyd reference to teach the inherency of the phrase trade agreement within the idea of negotiation. Applicants arguments to the Fisher-Byde-McCormick combination for claims 2-5, 14-15, and 24-25 are not found persuasive. The Examiner has found art for each rejection and art was found for each rejection stated in the Office Action. Thus, Official Notice was not taken as the art shows that it was well known in the art at the time of the invention for a trade agreement to have a negotiation..